

**ONTARIO  
SUPERIOR COURT OF JUSTICE  
COMMERCIAL LIST**

THE HONOURABLE  
JUSTICE PATTILLO

)  
)  
)

MONDAY, AUGUST 26, 2013

B E T W E E N:

ICICI BANK CANADA

Applicant

and

2058756 ONTARIO LIMITED

Respondent

**ORDER  
(INTERIM DISTRIBUTION AND BAR DATE)**

**THIS MOTION**, made by the Court Appointed Receiver, A. John Page & Associates Inc., for an order (a) approving the Third Report of the Receiver and the conduct and activities of the Receiver as set out in that Third Report dated August 8, 2013 (the "Third Report"); (b) approving the Receiver's Statement of Receipts and Disbursements included in the Third Report (c) permitting the Receiver to make an interim distribution to the first secured creditor, the Applicant, and to hold back the balance of the amounts received pending further order of this Court (d) establishing a Claims Bar Date of September 9, 2013 in respect of the potential claims of Habib Bank, the bankruptcy estate of Samak Management & Construction Inc. and the M. S. Khalid Family Trust, (collectively, the "Habib Bank Claimants") to proceeds of the sale of the Property; (e) approve the fees and expenses of the Receiver and its counsel; and, such further and

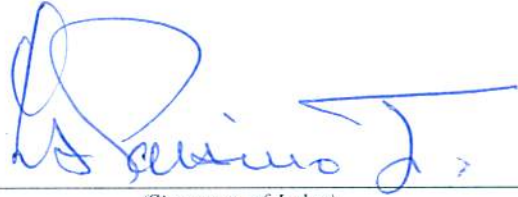
other relief as to this Honourable Court may seem just, was heard this day at the Court House, 330 University Avenue, Toronto, Ontario, M5G 1R7.

**ON READING** the Notice of Motion, the Third Report of the Receiver, and the affidavits of A. John Page, sworn August 13, 2013, and Jeffrey Rosekat, sworn August 13, 2013 and on hearing the submissions of the lawyer(s) present on the motion, all parties per the service list on the notice of motion having been served as appears from the affidavits of K. Engelhardt sworn August 14, 2013, Daniel Costa sworn August 14, 2013 and Carl Schiefer sworn August 14, 2013.

1. **THIS COURT ORDERS** that the activities of the Receiver to date as set out in the Third Report, are hereby approved.
2. **THIS COURT ORDERS** that the receipts and disbursements of the Receiver as set forth in the Statement of Receipts and Disbursements contained in his Third Report are hereby approved.
3. **THIS COURT ORDERS** that the Receiver is authorized to make an interim distribution to the first secured creditor, the Applicant, as set forth in the Third Report of the Receiver in the sum of \$700,000, and to hold back the balance of the amounts received pending further order of this Court.
4. **THIS COURT ORDERS** that
  - (a) a Claims Bar Date of 5PM EDT on September 9, 2013 is hereby established in respect of the potential claims of the Habib Bank Claimants to proceeds of the sale of the Property

- (b) in the event that a written notice by any of the Habib Bank Claimants to the Receiver that it intends to claim against the proceeds of sale and setting forth the details of such claim is not received before the Claims Bar Date by the Receiver, then the claim of that Habib Bank Claimant shall be extinguished and it may not claim against the proceeds of sale. Further, if the M.S.Khalid Family Trust fails to provide written notice as above by the Claims Bar Date, the outstanding motion of the M.S.Khalid Family Trust dated September 10<sup>th</sup>, 2012 in this proceeding, shall be dismissed;
  - (c) in the event that none of the Habib Bank Claimants indicate any intention to claim against the proceeds of sale before the Claims Bar Date, the Receiver is hereby authorized to thereafter pay the amount of the Habib Bank holdback, as set forth in the Third Report, to the Applicant.
  - (d) in the event that a notice of claim is received by the Receiver by the Claims Bar Date, the claim shall be dealt with by further order of this Court and the Receiver shall continue to hold the Habib Bank holdback pending further order.
  - (e) this Order be delivered to the Habib Bank Claimants on or before August 29<sup>th</sup>, 2013.
5. **THIS COURT ORDERS** that the fees of the Receiver to the period from April 1, 2013 and ending July 31, 2013 in the amount of \$48,680.44 plus applicable GST/HST as set forth in the affidavit of A. John Page and the exhibits attached thereto and filed with this Notice of Motion, are hereby approved and allowed.

6. **THIS COURT ORDERS** that the fees and disbursements of the Receiver's counsel commencing April 1, 2013 and ending on July 31, 2013 in the amount of \$40,534.35, inclusive of applicable GST/HST, as set forth in the fee affidavit of J. Rosekat and the exhibits attached thereto and filed with this Notice of Motion, are hereby approved and allowed.



*(Signature of Judge)*

ENTERED AT / INSCRIT A TORONTO  
ON / BOOK NO:  
LE / DANS LE REGISTRE NO:

AUG 26 2013



ICICI Bank Canada  
Applicant

-and- 2058756 ONTARIO LIMITED  
Respondent

Court File No. CV-12-9740-00CL

**ONTARIO  
SUPERIOR COURT OF JUSTICE  
COMMERCIAL LIST**

PROCEEDING COMMENCED AT  
TORONTO

**ORDER  
(INTERIM DISTRIBUTION AND BAR DATE)**

**GARDINER ROBERTS LLP**

Lawyers  
Scotia Plaza  
40 King Street West, Suite 3100  
Toronto ON M5H 3Y2

Jonathan H. Wigley (20120P)

[jwigley@gardiner-roberts.com](mailto:jwigley@gardiner-roberts.com)

Tel: (416) 865-6655

Tel: (416) 865-6600

Fax: (416) 865-6636

Lawyers for the Court-Appointed Receiver,  
A. John Page & Associates Inc.

RCP-E 4C (July 1, 2007)